



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB0559

Introduced 1/27/2005, by Rep. Terry R. Parke - Mr. Maria Antonia Berrios

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-6-3.1

from Ch. 38, par. 1005-6-3.1

Amends the Unified Code of Corrections. Provides that a person placed on court supervision for driving an uninsured vehicle must maintain proof of financial responsibility, in a manner satisfactory to the Secretary of State, for a period of at least 3 years (rather than one year) after the date the proof is first filed.

LRB094 03738 RLC 33747 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unified Code of Corrections is amended by
5 changing Section 5-6-3.1 as follows:

6 (730 ILCS 5/5-6-3.1) (from Ch. 38, par. 1005-6-3.1)

7 Sec. 5-6-3.1. Incidents and Conditions of Supervision.

8 (a) When a defendant is placed on supervision, the court
9 shall enter an order for supervision specifying the period of
10 such supervision, and shall defer further proceedings in the
11 case until the conclusion of the period.

12 (b) The period of supervision shall be reasonable under all
13 of the circumstances of the case, but may not be longer than 2
14 years, unless the defendant has failed to pay the assessment
15 required by Section 10.3 of the Cannabis Control Act or Section
16 411.2 of the Illinois Controlled Substances Act, in which case
17 the court may extend supervision beyond 2 years. Additionally,
18 the court shall order the defendant to perform no less than 30
19 hours of community service and not more than 120 hours of
20 community service, if community service is available in the
21 jurisdiction and is funded and approved by the county board
22 where the offense was committed, when the offense (1) was
23 related to or in furtherance of the criminal activities of an
24 organized gang or was motivated by the defendant's membership
25 in or allegiance to an organized gang; or (2) is a violation of
26 any Section of Article 24 of the Criminal Code of 1961 where a
27 disposition of supervision is not prohibited by Section 5-6-1
28 of this Code. The community service shall include, but not be
29 limited to, the cleanup and repair of any damage caused by
30 violation of Section 21-1.3 of the Criminal Code of 1961 and
31 similar damages to property located within the municipality or
32 county in which the violation occurred. Where possible and

1 reasonable, the community service should be performed in the
2 offender's neighborhood.

3 For the purposes of this Section, "organized gang" has the
4 meaning ascribed to it in Section 10 of the Illinois Streetgang
5 Terrorism Omnibus Prevention Act.

6 (c) The court may in addition to other reasonable
7 conditions relating to the nature of the offense or the
8 rehabilitation of the defendant as determined for each
9 defendant in the proper discretion of the court require that
10 the person:

11 (1) make a report to and appear in person before or
12 participate with the court or such courts, person, or
13 social service agency as directed by the court in the order
14 of supervision;

15 (2) pay a fine and costs;

16 (3) work or pursue a course of study or vocational
17 training;

18 (4) undergo medical, psychological or psychiatric
19 treatment; or treatment for drug addiction or alcoholism;

20 (5) attend or reside in a facility established for the
21 instruction or residence of defendants on probation;

22 (6) support his dependents;

23 (7) refrain from possessing a firearm or other
24 dangerous weapon;

25 (8) and in addition, if a minor:

26 (i) reside with his parents or in a foster home;

27 (ii) attend school;

28 (iii) attend a non-residential program for youth;

29 (iv) contribute to his own support at home or in a
30 foster home; or

31 (v) with the consent of the superintendent of the
32 facility, attend an educational program at a facility
33 other than the school in which the offense was
34 committed if he or she is placed on supervision for a
35 crime of violence as defined in Section 2 of the Crime
36 Victims Compensation Act committed in a school, on the

1 real property comprising a school, or within 1,000 feet
2 of the real property comprising a school;

3 (9) make restitution or reparation in an amount not to
4 exceed actual loss or damage to property and pecuniary loss
5 or make restitution under Section 5-5-6 to a domestic
6 violence shelter. The court shall determine the amount and
7 conditions of payment;

8 (10) perform some reasonable public or community
9 service;

10 (11) comply with the terms and conditions of an order
11 of protection issued by the court pursuant to the Illinois
12 Domestic Violence Act of 1986 or an order of protection
13 issued by the court of another state, tribe, or United
14 States territory. If the court has ordered the defendant to
15 make a report and appear in person under paragraph (1) of
16 this subsection, a copy of the order of protection shall be
17 transmitted to the person or agency so designated by the
18 court;

19 (12) reimburse any "local anti-crime program" as
20 defined in Section 7 of the Anti-Crime Advisory Council Act
21 for any reasonable expenses incurred by the program on the
22 offender's case, not to exceed the maximum amount of the
23 fine authorized for the offense for which the defendant was
24 sentenced;

25 (13) contribute a reasonable sum of money, not to
26 exceed the maximum amount of the fine authorized for the
27 offense for which the defendant was sentenced, to a "local
28 anti-crime program", as defined in Section 7 of the
29 Anti-Crime Advisory Council Act;

30 (14) refrain from entering into a designated
31 geographic area except upon such terms as the court finds
32 appropriate. Such terms may include consideration of the
33 purpose of the entry, the time of day, other persons
34 accompanying the defendant, and advance approval by a
35 probation officer;

36 (15) refrain from having any contact, directly or

1 indirectly, with certain specified persons or particular
2 types of person, including but not limited to members of
3 street gangs and drug users or dealers;

4 (16) refrain from having in his or her body the
5 presence of any illicit drug prohibited by the Cannabis
6 Control Act or the Illinois Controlled Substances Act,
7 unless prescribed by a physician, and submit samples of his
8 or her blood or urine or both for tests to determine the
9 presence of any illicit drug;

10 (17) refrain from operating any motor vehicle not
11 equipped with an ignition interlock device as defined in
12 Section 1-129.1 of the Illinois Vehicle Code. Under this
13 condition the court may allow a defendant who is not
14 self-employed to operate a vehicle owned by the defendant's
15 employer that is not equipped with an ignition interlock
16 device in the course and scope of the defendant's
17 employment.

18 (d) The court shall defer entering any judgment on the
19 charges until the conclusion of the supervision.

20 (e) At the conclusion of the period of supervision, if the
21 court determines that the defendant has successfully complied
22 with all of the conditions of supervision, the court shall
23 discharge the defendant and enter a judgment dismissing the
24 charges.

25 (f) Discharge and dismissal upon a successful conclusion of
26 a disposition of supervision shall be deemed without
27 adjudication of guilt and shall not be termed a conviction for
28 purposes of disqualification or disabilities imposed by law
29 upon conviction of a crime. Two years after the discharge and
30 dismissal under this Section, unless the disposition of
31 supervision was for a violation of Sections 3-707, 3-708,
32 3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code or a
33 similar provision of a local ordinance, or for a violation of
34 Sections 12-3.2 or 16A-3 of the Criminal Code of 1961, in which
35 case it shall be 5 years after discharge and dismissal, a
36 person may have his record of arrest sealed or expunged as may

1 be provided by law. However, any defendant placed on
2 supervision before January 1, 1980, may move for sealing or
3 expungement of his arrest record, as provided by law, at any
4 time after discharge and dismissal under this Section. A person
5 placed on supervision for a sexual offense committed against a
6 minor as defined in subsection (g) of Section 5 of the Criminal
7 Identification Act or for a violation of Section 11-501 of the
8 Illinois Vehicle Code or a similar provision of a local
9 ordinance shall not have his or her record of arrest sealed or
10 expunged.

11 (g) A defendant placed on supervision and who during the
12 period of supervision undergoes mandatory drug or alcohol
13 testing, or both, or is assigned to be placed on an approved
14 electronic monitoring device, shall be ordered to pay the costs
15 incidental to such mandatory drug or alcohol testing, or both,
16 and costs incidental to such approved electronic monitoring in
17 accordance with the defendant's ability to pay those costs. The
18 county board with the concurrence of the Chief Judge of the
19 judicial circuit in which the county is located shall establish
20 reasonable fees for the cost of maintenance, testing, and
21 incidental expenses related to the mandatory drug or alcohol
22 testing, or both, and all costs incidental to approved
23 electronic monitoring, of all defendants placed on
24 supervision. The concurrence of the Chief Judge shall be in the
25 form of an administrative order. The fees shall be collected by
26 the clerk of the circuit court. The clerk of the circuit court
27 shall pay all moneys collected from these fees to the county
28 treasurer who shall use the moneys collected to defray the
29 costs of drug testing, alcohol testing, and electronic
30 monitoring. The county treasurer shall deposit the fees
31 collected in the county working cash fund under Section 6-27001
32 or Section 6-29002 of the Counties Code, as the case may be.

33 (h) A disposition of supervision is a final order for the
34 purposes of appeal.

35 (i) The court shall impose upon a defendant placed on
36 supervision after January 1, 1992 or to community service under

1 the supervision of a probation or court services department
2 after January 1, 2004, as a condition of supervision or
3 supervised community service, a fee of \$50 for each month of
4 supervision or supervised community service ordered by the
5 court, unless after determining the inability of the person
6 placed on supervision or supervised community service to pay
7 the fee, the court assesses a lesser fee. The court may not
8 impose the fee on a minor who is made a ward of the State under
9 the Juvenile Court Act of 1987 while the minor is in placement.
10 The fee shall be imposed only upon a defendant who is actively
11 supervised by the probation and court services department. The
12 fee shall be collected by the clerk of the circuit court. The
13 clerk of the circuit court shall pay all monies collected from
14 this fee to the county treasurer for deposit in the probation
15 and court services fund pursuant to Section 15.1 of the
16 Probation and Probation Officers Act.

17 A circuit court may not impose a probation fee in excess of
18 \$25 per month unless: (1) the circuit court has adopted, by
19 administrative order issued by the chief judge, a standard
20 probation fee guide determining an offender's ability to pay,
21 under guidelines developed by the Administrative Office of the
22 Illinois Courts; and (2) the circuit court has authorized, by
23 administrative order issued by the chief judge, the creation of
24 a Crime Victim's Services Fund, to be administered by the Chief
25 Judge or his or her designee, for services to crime victims and
26 their families. Of the amount collected as a probation fee, not
27 to exceed \$5 of that fee collected per month may be used to
28 provide services to crime victims and their families.

29 (j) All fines and costs imposed under this Section for any
30 violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle
31 Code, or a similar provision of a local ordinance, and any
32 violation of the Child Passenger Protection Act, or a similar
33 provision of a local ordinance, shall be collected and
34 disbursed by the circuit clerk as provided under Section 27.5
35 of the Clerks of Courts Act.

36 (k) A defendant at least 17 years of age who is placed on

1 supervision for a misdemeanor in a county of 3,000,000 or more
2 inhabitants and who has not been previously convicted of a
3 misdemeanor or felony may as a condition of his or her
4 supervision be required by the court to attend educational
5 courses designed to prepare the defendant for a high school
6 diploma and to work toward a high school diploma or to work
7 toward passing the high school level Test of General
8 Educational Development (GED) or to work toward completing a
9 vocational training program approved by the court. The
10 defendant placed on supervision must attend a public
11 institution of education to obtain the educational or
12 vocational training required by this subsection (k). The
13 defendant placed on supervision shall be required to pay for
14 the cost of the educational courses or GED test, if a fee is
15 charged for those courses or test. The court shall revoke the
16 supervision of a person who wilfully fails to comply with this
17 subsection (k). The court shall resentence the defendant upon
18 revocation of supervision as provided in Section 5-6-4. This
19 subsection (k) does not apply to a defendant who has a high
20 school diploma or has successfully passed the GED test. This
21 subsection (k) does not apply to a defendant who is determined
22 by the court to be developmentally disabled or otherwise
23 mentally incapable of completing the educational or vocational
24 program.

25 (l) The court shall require a defendant placed on
26 supervision for possession of a substance prohibited by the
27 Cannabis Control Act or Illinois Controlled Substances Act
28 after a previous conviction or disposition of supervision for
29 possession of a substance prohibited by the Cannabis Control
30 Act or Illinois Controlled Substances Act or a sentence of
31 probation under Section 10 of the Cannabis Control Act or
32 Section 410 of the Illinois Controlled Substances Act and after
33 a finding by the court that the person is addicted, to undergo
34 treatment at a substance abuse program approved by the court.

35 (m) The Secretary of State shall require anyone placed on
36 court supervision for a violation of Section 3-707 of the

1 Illinois Vehicle Code or a similar provision of a local
2 ordinance to give proof of his or her financial responsibility
3 as defined in Section 7-315 of the Illinois Vehicle Code. The
4 proof shall be maintained by the individual in a manner
5 satisfactory to the Secretary of State for a minimum period of
6 3 years ~~one year~~ after the date the proof is first filed. The
7 proof shall be limited to a single action per arrest and may
8 not be affected by any post-sentence disposition. The Secretary
9 of State shall suspend the driver's license of any person
10 determined by the Secretary to be in violation of this
11 subsection.

12 (n) Any offender placed on supervision for any offense that
13 the court or probation department has determined to be sexually
14 motivated as defined in the Sex Offender Management Board Act
15 shall be required to refrain from any contact, directly or
16 indirectly, with any persons specified by the court and shall
17 be available for all evaluations and treatment programs
18 required by the court or the probation department.

19 (Source: P.A. 92-282, eff. 8-7-01; 92-458, eff. 8-22-01;
20 92-651, eff. 7-11-02; 93-475, eff. 8-8-03; 93-970, eff.
21 8-20-04.)